

ACTIVE TRANSPORTATION AND CANAL TRAIL**AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill clarifies how the Department of Transportation addresses canal corridors in transportation corridor preservation and project prioritization, and canal trails in active transportation planning.

Highlighted Provisions:

This bill:

- ▶ requires a canal owner or operator to notify certain entities of the intent to abandon or transfer title of a canal;
- ▶ provides certain entities the right of first refusal to purchase a canal;
- ▶ requires the Department of Natural Resources to compile a list of certain canals and provide that list to the Department of Transportation;
- ▶ requires the Department of Transportation to:
 - develop a canal trail toolkit;
 - inventory certain canals in the state;
 - consider creating a canal trail as part of the active transportation plan; and
 - identify certain canal corridors for transportation corridor preservation;
- ▶ enables the Transportation Commission to consider water savings and improvement of canal infrastructure when prioritizing a transportation project; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 32 **10-9a-211**, as last amended by Laws of Utah 2017, Chapters 410, 428
- 33 **17-27a-211**, as last amended by Laws of Utah 2017, Chapters 410, 428
- 34 **57-13a-101**, as enacted by Laws of Utah 1997, Chapter 175
- 35 **57-13a-104**, as last amended by Laws of Utah 2023, Chapter 435
- 36 **72-1-304**, as last amended by Laws of Utah 2023, Chapters 22, 88 and 219
- 37 **72-5-403**, as last amended by Laws of Utah 2023, Chapter 39

38 ENACTS:

- 39 **72-1-218**, Utah Code Annotated 1953
- 40 **79-2-409**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **10-9a-211** is amended to read:

44 **10-9a-211. Canal owner or operator -- Notice to municipality.**

45 (1) (a) A canal company or a canal operator shall ensure that each municipality in
46 which the canal company or canal operator owns or operates a canal has on file, regarding the
47 canal company or canal operator:

- 48 ~~[(a)]~~ (i) a current mailing address and phone number;
- 49 ~~[(b)]~~ (ii) a contact name; and
- 50 ~~[(c)]~~ (iii) a general description of the location of each canal owned or operated by the
51 canal owner or canal operator.

52 ~~[(2)]~~ (b) If the information described in Subsection ~~[(1)]~~ (1)(a) changes after a canal
53 company or a canal operator has provided the information to the municipality, the canal
54 company or canal operator shall provide the correct information within 30 days of the day on
55 which the information changes.

56 (2) (a) A canal owner or operator may not transfer title or abandon the canal or portion
57 of the canal until:

58 (i) the canal owner or operator provides the notice of intent described in Subsection
59 (2)(b); and

60 (ii) each entity has the opportunity to exercise the right of first refusal as described in
61 Subsection (2)(c).

62 (b) (i) The canal owner or operator shall send a notice of the intent to transfer title or

63 abandon the canal or portion of the canal, at least 135 days before the transfer of title or
64 abandonment of the canal or portion of the canal, to the following:

65 (A) if applicable, each municipality where the canal or portion of the canal is located;

66 (B) each county where the canal or portion of the canal is located;

67 (C) if applicable, each relevant metropolitan planning organization, as defined in
68 Section 72-1-208.5, where the canal or portion of the canal is located; and

69 (D) the Department of Transportation created in Section 72-1-201.

70 (ii) The notice of the intent to transfer title or abandon the canal or portion of the canal
71 shall contain:

72 (A) the canal owner's or operator's name and contact information;

73 (B) the date the notice was sent;

74 (C) a description of the canal or portion of the canal; and

75 (D) a map of the canal or portion of the canal.

76 (c) (i) Except as provided in Subsection (2)(c)(ii), the following entities shall have the
77 right of first refusal for the time specified, to purchase the canal or portion of the canal for fair
78 market value:

79 (A) each municipality where the canal or portion of the canal is located shall have from
80 the day on which the notice of intent was sent until the 45th day after the notice of intent was
81 sent to exercise the right of first refusal;

82 (B) each county where the canal or portion of the canal is located shall have from the
83 46th to the 90th day after the notice of intent was sent to exercise the right of first refusal; and

84 (C) the Department of Transportation created in Section 72-1-201 shall have from the
85 91st to the 135th day after the notice of intent to exercise the right of first refusal.

86 (ii) If the canal or portion of the canal is not located within the boundaries of a
87 municipality:

88 (A) each county where the canal or portion of the canal is located outside a
89 municipality shall have from the day on which the notice of intent was sent until the 90th day
90 after the notice of intent was sent to exercise the right of first refusal; and

91 (B) the Department of Transportation's time period to exercise the right of first refusal
92 remains the same as described in Subsection (2)(c)(i)(C).

93 (d) If a municipality or county described in Subsection (2)(c) chooses to exercise the

94 right of first refusal, that municipality or county shall notify each entity listed after that
 95 municipality or county in Subsection (2)(c)(i) on the day the right of first refusal is exercised.

96 Section 2. Section 17-27a-211 is amended to read:

97 **17-27a-211. Canal owner or operator -- Notice to county.**

98 (1) A canal company or a canal operator shall ensure that each county in which the
 99 canal company or canal operator owns or operates a canal has on file, regarding the canal
 100 company or canal operator:

101 (a) a current mailing address and phone number;

102 (b) a contact name; and

103 (c) a general description of the location of each canal owned or operated by the canal
 104 owner or canal operator.

105 ~~[(2)]~~ (d) If the information described in Subsection ~~[(1)]~~ (1)(a) changes after a canal
 106 company or a canal operator has provided the information to the county, the canal company or
 107 canal operator shall provide the correct information within 30 days of the day on which the
 108 information changes.

109 (2) (a) A canal owner or operator may not transfer title or abandon the canal or portion
 110 of the canal until:

111 (i) the canal owner or operator provides the notice of intent described in Subsection
 112 (2)(b); and

113 (ii) each entity has the opportunity to exercise the right of first refusal as described in
 114 Subsection (2)(c).

115 (b) (i) The canal owner or operator shall send a notice of the intent to transfer title or
 116 abandon the canal or portion of the canal, at least 135 days before the transfer of title or
 117 abandonment of the canal or portion of the canal, to the following:

118 (A) if applicable, each municipality where the canal or portion of the canal is located;

119 (B) each county where the canal or portion of the canal is located;

120 (C) if applicable, each relevant metropolitan planning organization, as defined in
 121 Section 72-1-208.5, where the canal or portion of the canal is located; and

122 (D) the Department of Transportation created in Section 72-1-201.

123 (ii) The notice of the intent to transfer title or abandon the canal or portion of the canal
 124 shall contain:

125 (A) the canal owner's or operator's name and contact information;

126 (B) the date the notice was sent;

127 (C) a description of the canal or portion of the canal; and

128 (D) a map of the canal or portion of the canal.

129 (c) (i) Except as provided in Subsection (2)(c)(ii), the following entities shall have the
130 right of first refusal for the time specified, to purchase the canal or portion of the canal for fair
131 market value:

132 (A) each municipality where the canal or portion of the canal is located shall have from
133 the day on which the notice of intent was sent until the 45th day after the notice of intent was
134 sent to exercise the right of first refusal;

135 (B) each county where the canal or portion of the canal is located shall have from the
136 46th to the 90th day after the notice of intent was sent to exercise the right of first refusal; and

137 (C) the Department of Transportation created in Section 72-1-201 shall have from the
138 91st to the 135th day after the notice of intent to exercise the right of first refusal.

139 (ii) If the canal or portion of the canal is not located within the boundaries of a
140 municipality:

141 (A) each county where the canal or portion of the canal is located outside a
142 municipality shall have from the day on which the notice of intent was sent until the 90th day
143 after the notice of intent was sent to exercise the right of first refusal; and

144 (B) the Department of Transportation's time period to exercise the right of first refusal
145 remains the same as described in Subsection (2)(c)(i)(C).

146 (d) If a municipality or county described in Subsection (2)(c) chooses to exercise the
147 right of first refusal, that municipality or county shall notify each entity listed after that
148 municipality or county in Subsection (2)(c)(i) on the day the right of first refusal is exercised.

149 Section 3. Section **57-13a-101** is amended to read:

150 **57-13a-101. Definitions.**

151 As used in this chapter:

152 (1) "Department of Transportation" means the Department of Transportation created in
153 Section 72-1-201.

154 (2) "Metropolitan planning organization" means the same as that term is defined in
155 Section 72-1-208.5.

156 (3) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying
157 water.

158 ~~(2)~~ (4) "Water user" means a water user or the water user's predecessor whose water
159 being conveyed is represented by a water right recognized under state law or by shares in a
160 mutual irrigation company.

161 Section 4. Section **57-13a-104** is amended to read:

162 **57-13a-104. Abandonment of prescriptive easement for water conveyance.**

163 (1) A holder of a prescriptive easement for a water conveyance established under
164 Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

165 (2) (a) A holder of a prescriptive easement for a water conveyance established under
166 Section 57-13a-102 who seeks to abandon the easement or part of the easement shall, in each
167 county where the easement or part of the easement is located, file in the office of the county
168 recorder a notice of intent to abandon the prescriptive easement that describes the easement or
169 part of the easement to be abandoned.

170 (b) A county recorder who receives a notice of intent to abandon a prescriptive
171 easement shall:

172 (i) publish copies of the notice for the area generally served by the water conveyance
173 that utilizes the easement, as a class A notice under Section 63G-30-102, for at least 45 days;
174 and

175 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to:

176 (A) ~~each [municipal and] county government, municipal government, and, if~~
177 applicable, metropolitan planning organization where the easement or part of the easement is
178 located [-]; and

179 (B) the Department of Transportation.

180 (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the
181 last day on which the county recorder posts the notice of intent to abandon the prescriptive
182 easement in accordance with Subsection (2)(b), the holder of the prescriptive easement shall
183 file in the office of the county recorder for each county where the easement or part of the
184 easement is located a notice of abandonment that contains the same description required by
185 Subsection (2)(a).

186 (4) (a) Upon completion of the requirements described in Subsection (2):

187 (i) all interest to the easement or part of the easement abandoned by the holder of the
188 easement is extinguished; and

189 (ii) subject to each legal right that exists as described in Subsection (4)(b), the owner of
190 a servient estate whose land was encumbered by the easement or part of the easement
191 abandoned may reclaim the land area occupied by the former easement or part of the easement
192 and resume full utilization of the land without liability to the former holder of the easement.

193 (b) Abandonment of a prescriptive easement under this section does not affect a legal
194 right to have water delivered or discharged through the water conveyance and easement
195 established by a person other than the holder of the easement who abandons an easement as
196 provided in this section.

197 (5) A county recorder may bill the holder of the prescriptive easement for the cost of
198 preparing, printing, and publishing the notice required under Subsection (2)(b).

199 Section 5. Section **72-1-218** is enacted to read:

200 **72-1-218. Canal trails.**

201 (1) As used in this section, "political subdivision" means a municipality, city, town,
202 county, or metro township as defined in Section 10-2a-403.

203 (2) The department shall:

204 (a) develop a toolkit for a political subdivision to develop and maintain a canal trail,
205 including:

206 (i) sample license agreements;

207 (ii) available resources that can assist the political subdivision in funding a canal trail;

208 and

209 (iii) best methods, modes, and practices in developing and maintaining a canal trail;

210 (b) make the toolkit described in Subsection (2)(a) publicly available on the
211 department's website;

212 (c) receive the list of canals described in Section 79-2-207 from the Department of
213 Natural Resources created in Section 79-2-201;

214 (d) identify each canal on the list described in Subsection (2)(c) that the department
215 considers to be a high priority corridor as described in Section 72-5-403; and

216 (e) create an inventory of each canal the department identifies as a high priority
217 corridor as described in Subsection (2)(d) that includes:

- 218 (i) the type of land ownership held by each owner of a canal or portion of a canal;
219 (ii) whether an easement exists pertaining to the canal and the type of easement;
220 (iii) whether the owner of a canal or owner of a portion of a canal is willing to allow
221 pipng of the canal or allow construction of a trail on or along the canal; and
222 (iv) the maximum operating flow rate of the canal.
223 (3) As the department develops the active transportation plan as required in Subsection
224 72-2-124(11)(d)(ii), the department shall consider developing a canal trail along or on an
225 existing canal right of way.

226 Section 6. Section **72-1-304** is amended to read:

227 **72-1-304. Written project prioritization process for new transportation capacity**
228 **projects -- Rulemaking.**

229 (1) (a) The Transportation Commission, in consultation with the department and the
230 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written
231 prioritization process for the prioritization of:

232 (i) new transportation capacity projects that are or will be part of the state highway
233 system under Chapter 4, Part 1, State Highways;

234 (ii) paved pedestrian or paved nonmotorized transportation projects described in
235 Section 72-2-124;

236 (iii) public transit projects that directly add capacity to the public transit systems within
237 the state, not including facilities ancillary to the public transit system; and

238 (iv) pedestrian or nonmotorized transportation projects that provide connection to a
239 public transit system.

240 (b) (i) A local government or district may nominate a project for prioritization in
241 accordance with the process established by the commission in rule.

242 (ii) If a local government or district nominates a project for prioritization by the
243 commission, the local government or district shall provide data and evidence to show that:

244 (A) the project will advance the purposes and goals described in Section 72-1-211;

245 (B) for a public transit project, the local government or district has an ongoing funding
246 source for operations and maintenance of the proposed development; and

247 (C) the local government or district will provide the percentage of the costs for the
248 project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

249 (2) The following shall be included in the written prioritization process under
250 Subsection (1):

251 (a) a description of how the strategic initiatives of the department adopted under
252 Section 72-1-211 are advanced by the written prioritization process;

253 (b) a definition of the type of projects to which the written prioritization process
254 applies;

255 (c) specification of a weighted criteria system that is used to rank proposed projects
256 and how it will be used to determine which projects will be prioritized;

257 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

258 (e) any other provisions the commission considers appropriate, which may include
259 consideration of:

260 (i) regional and statewide economic development impacts, including improved local
261 access to:

262 (A) employment;

263 (B) educational facilities;

264 (C) recreation;

265 (D) commerce; and

266 (E) residential areas, including moderate income housing as demonstrated in the local
267 government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

268 (ii) the extent to which local land use plans relevant to a project support and
269 accomplish the strategic initiatives adopted under Section 72-1-211; and

270 (iii) any matching funds provided by a political subdivision or public transit district in
271 addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and
272 72-2-124(9)(e).

273 (3) (a) When prioritizing a public transit project that increases capacity, the
274 commission:

275 (i) may give priority consideration to projects that are part of a transit-oriented
276 development or transit-supportive development as defined in Section 17B-2a-802; and

277 (ii) shall give priority consideration to projects that are within the boundaries of a
278 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6,
279 Housing and Transit Reinvestment Zone Act.

280 (b) When prioritizing a transportation project that increases capacity, the commission
281 may give priority consideration to projects that are:

282 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:

283 (A) the state is a participant in the transportation reinvestment zone; or

284 (B) the commission finds that the transportation reinvestment zone provides a benefit
285 to the state transportation system; or

286 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant
287 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

288 (c) If the department receives a notice of prioritization for a municipality as described
289 in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection
290 17-27a-408(5), the commission may give priority consideration to transportation projects that
291 are within the boundaries of the municipality or the unincorporated areas of the county until the
292 department receives notification from the Housing and Community Development Division
293 within the Department of Workforce Services that the municipality or county no longer
294 qualifies for prioritization under this Subsection (3)(c).

295 (d) When prioritizing funding from the Active Transportation Investment Fund created
296 under Subsection 72-2-124(11):

297 (i) the department shall provide the commission with information on a project's
298 potential to save water or improve canal infrastructure; and

299 (ii) the commission may consider the information the department provides the
300 commission on a project's potential to save water or improve canal infrastructure.

301 (4) In developing the written prioritization process, the commission:

302 (a) shall seek and consider public comment by holding public meetings at locations
303 throughout the state; and

304 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
305 the state provides an equal opportunity to raise local matching dollars for state highway
306 improvements within each county.

307 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
308 Transportation Commission, in consultation with the department, shall make rules establishing
309 the written prioritization process under Subsection (1).

310 (6) The commission shall submit the proposed rules under this section to a committee

311 or task force designated by the Legislative Management Committee for review prior to taking
312 final action on the proposed rules or any proposed amendment to the rules described in
313 Subsection (5).

314 Section 7. Section **72-5-403** is amended to read:

315 **72-5-403. Transportation corridor preservation powers.**

316 (1) The department, counties, and municipalities may:

317 (a) act in cooperation with one another and other government entities to promote
318 planning for and enhance the preservation of transportation corridors and to more effectively
319 use the money available in the Marda Dillree Corridor Preservation Fund created in Section
320 72-2-117;

321 (b) undertake transportation corridor planning, review, and preservation processes; and

322 (c) acquire fee simple rights and other rights of less than fee simple, including
323 easement and development rights, or the rights to limit development, including rights in
324 alternative transportation corridors, and to make these acquisitions up to a projected 40 years in
325 advance of using those rights in actual transportation facility construction.

326 (2) In addition to the powers described under Subsection (1), counties and
327 municipalities may:

328 (a) limit development for transportation corridor preservation by land use regulation
329 and by official maps; and

330 (b) by ordinance prescribe procedures for approving limited development in
331 transportation corridors until the time transportation facility construction begins.

332 (3) (a) (i) The department shall identify and the commission shall approve
333 transportation corridors as high priority transportation corridors for transportation corridor
334 preservation.

335 (ii) As part of the identification process described in Subsection (3)(a)(i), the
336 department shall identify statewide and regional canal corridors as high priority transportation
337 corridors for transportation corridor preservation.

338 (b) The department shall notify a county or municipality if the county or municipality
339 has land within its boundaries that is located within the boundaries of a high priority
340 transportation corridor.

341 (c) The department may, on a voluntary basis, acquire private property rights within the

342 boundaries of a high priority transportation corridor for which a notification has been received
343 in accordance with Section 10-9a-206 or 17-27a-206.

344 Section 8. Section **79-2-409** is enacted to read:

345 **79-2-409. Canal list and map.**

346 The department shall:

347 (1) compile a list and map of the canals in the state that have a maximum operating
348 flow rate of 20 cubic feet per second or more; and

349 (2) send the list and map to the Department of Transportation created in Section
350 72-1-201 before October 31, 2024.

351 Section 9. **Effective date.**

352 This bill takes effect on May 1, 2024.